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unity and of the historical point of view. It is probably not without its significance that King has spent his life publishing texts while Rogers, who has produced a book so much more in line with modern historical methods, has confined himself almost exclusively to the study of history. It is an axiom of long standing that rarely do we have a genius so great as to be great both as a philologist and as a historian.

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THE BABYLONIAN AND THE HEBREW LAWS

Before publishing his Schweich Lectures for 1912, Dr. Johns apparently took some time to edit his lectures and to compile an extensive bibliography which is appended to the volume.¹

One opens the book with expectation, since Dr. Johns was one of the first translators of the Code of Hammurapi, and has for years specialized in the contract literature of Babylonia, but one lays it down with something of disappointment. Of course in three brief lectures no exhaustive comparison of the long Babylonian code and the laws of the Pentateuch was possible; only a few salient points could be dealt with. In the brief compass allowed the author naturally deals with those points of the two legislations that most readily invite comparison and contrast—questions of the organization of society in the two countries, temporary slavery incurred in consequence of debt, the treatment of an ox who gores a man, etc. In the course of his exposition Dr. Johns often directs his telling shafts of criticism against those who have made extravagant claims for the influence of the Babylonian code. For this work he merits our gratitude, for his rapier pricks many a bubble.

Dr. Johns recognizes, as every student of these legislations does, that there is a considerable element common to the two bodies of laws. For example, the punishments in both are based in a good degree upon the *lex talionis*. The attitude of the author as to the cause of these likenesses is of peculiar interest. It has been clear to his colleagues ever since Dr. Johns wrote the introduction to Jeremias' *The Old Testament in the Light of the Ancient Orient* that he has a leaning toward Pan-Babylonianism. That leaning is apparent in this discussion. He remarks on p. 53: "A common Semitic origin may really be only a step toward a reference of

¹ *The Relation between the Laws of Babylonia and the Laws of the Hebrew Peoples*. By Rev. C. H. W. Johns, M.A., Litt.D., Master of St. Catherine's College, Cambridge. London: Published by the British Academy, 1914. xvi+96 pages. 3s.

both to an early Babylonian origin." Again: "We are not likely to find evidence of early Semitic custom anywhere so early by some thousand years as in Babylonia." He goes on to recognize that Arabic customs *may* be really older, as they are certainly more primitive, but says we can never be sure of their date, except where they arise purely and simply out of local circumstances. With this statement the reviewer is inclined to take issue. There are some Semitic institutions that are practically universal in the Semitic world (such, for example, as the Ishtar cult), and the fact of this universality is a strong argument for a purely Semitic and not a Babylonian origin.

Dr. Johns further remarks: "It is most probable that some of the features which Hammurapi's Code has in common with early Hebrew legislation are only slightly modified from the still earlier codes which date from the time of the earlier Sumerian supremacy in Babylonia." This remark assumes that the Sumerian codes which antedated Hammurapi were free from Semitic influence. It overlooks the demonstration that Eduard Meyer made from Babylonian art that the Semites were in Babylonia before the Sumerians, and the religious evidence that Sumerian society was always permeated by a considerable Semitic element. The fact that a law found in the Pentateuch contains features which appear also in Sumerian codes which antedate Hammurapi is really in itself no proof that the feature in question is not ultimately derived from early Semitic custom.

It is rightly argued by Johns that in some cases similarity may be due to the fact that in all parts of the world the minds of men work in similar ways, and frequently hit upon the same expedients. Such similarities are witness neither to direct influence, nor to a common Semitic origin, but rather to the psychological unity of the race.

If, then, one code has influenced the other, we can detect the fact only in incidental and unimportant details, in which similar motives would not be likely to lead men to hit upon the same expedient, and details not found in common Semitic custom. Instances of such possible influence of Babylonia upon the legislation of Israel are tentatively suggested in the following cases:

1. Both bodies of legislation recognize that, when one has contracted a debt and has nothing to pay, he may designate some member of his family to work off the debt. There are differences of detail. The Babylonian code recognizes that a slave of the debtor may be assigned to the task; the Hebrew has no such provision. The point made by Johns has, however, to do with the time of the service. The Babylonian

provides that such a laborer *shall* go free at the end of three years; the Hebrew, that he *may* go free at the end of six. In Deut. 15:18, however, it is remarked that such a person has served "to the double of the hire of a hireling." Dr. Johns believes that this remark betrays a consciousness of the Babylonian three-year system. He accordingly finds here a probable trace of Babylonian influence, though he acknowledges that it may have been indirect. To the reviewer it seems quite as probable that the six-year period of Exod. 21:2 was as original in Israel as the period of three years in Babylonia, but that, if any knowledge of Babylonian law is to be detected, it comes in first with the Deuteronomist, who makes the comparison with the three-year standard. It should be noted, however, that the language of the Deuteronomist does not necessarily betray a knowledge of the Babylonian code, and perhaps precludes it. The Babylonian law contemplates either the giving of a wife, son, or daughter for the money (perhaps as a hostage), or the binding of someone out to service. In Deut. 15:18 the word which is brought into comparison is "hireling"—a word that by no means necessarily indicates such an unwilling hireling as the Babylonian law contemplates. If there is any influence, it seems to have been so indirect that the Deuteronomist was unconscious of its source.

2. A second instance in which Johns sees the possible traces of Babylonian influence is the use made in the two bodies of legislation of the penalty of burning. The code (§§ 157, 158) imposes it for incest with a man's own mother. Both the man and the woman were condemned to burning. In Lev. 20:14 it is imposed upon a man who lies with his mother-in-law, as well as on the mother-in-law herself, and in 21:9 the daughter of a priest who plays the harlot is also to be burned. As in all these cases this terrible penalty is applied to crimes of sexual irregularity, our author sees the possibility of Babylonian influence. It should be noted, however, that the variations in detail are such that direct borrowing seems to be precluded. It seems to the reviewer more plausible to suppose that among the early Semites cases of sexual irregularity were generally punished by burning, and that the instances cited are but specific survivals of it among different peoples. It is true that we have no evidence of such a primitive Semitic custom apart from these codes, but nevertheless the differences in the laws make this hypothesis as probable as that of Dr. Johns, and in the opinion of the reviewer more so.

3. Dr. Johns also brings the case of the priest's daughter (Lev. 21:9) into comparison with the provision of the code (§ 110) that a votary who shall open a wine-shop or enter a wine-shop shall be burned. As one

law mentions a votary and the other the daughter of a priest, he thinks there may be some connection here. This view is strengthened, he thinks, by the fact that Josephus explains the crime as not mere unchastity but as "opening a tavern," and some of the rabbis of the Talmud ask, "Shall not a priest's daughter be treated better than a tavern-keeper?" It seems, however, that all that can be inferred is that Josephus and the Talmud may have had some dim notions of the Babylonian code. The instances do not show that that code influenced Leviticus, if another explanation is more probable.

If, then, the three instances cited are the best that can be said for the influence of Babylonian law upon the Hebrew legislation, it must be confessed that that influence was practically *nil*. Dr. Johns has rendered a real service in narrowing the discussion down to these three parallels, and showing that, if Babylonian law did influence Hebrew law, it was in these instances.

An appendix of twenty-seven pages is devoted to a "Survey of the Bibliography of the Literature relating to the Code of Hammurapi." The title is interpreted so broadly that practically everything relating to the contract literature that has been published in recent years is included. This will add much to the value of the book to Assyriologists. Many of the articles have been scattered through such a variety of publications that it is a great convenience to have them brought together as they are here. On p. 77, by the omission of an author's name (probably by accident), the three volumes of the *Haverford Library Collection* by the present reviewer are attributed to Dr. R. J. Lau.

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NEW BABYLONIAN PUBLICATIONS OF THE UNIVERSITY OF PENNSYLVANIA

In the course of the last year, the Museum of the University of Pennsylvania has published a number of volumes concerning the cuneiform texts found during the famous Nippur excavations and now preserved in Philadelphia. The publications which will be considered in this review have been edited by Arno Poebel¹ and George A.

¹ *Historical Texts*. By Arno Poebel. University of Pennsylvania, The University Museum, Publications of the Babylonian Section, Vol. IV, No. 1. Philadelphia, 1914. 242 pages. \$5.00.

Historical and Grammatical Texts. By Arno Poebel. *Ibid.*, Vol. V. Philadelphia, 1914. 125 plates. \$10.00.

Grammatical Texts. By Arno Poebel. *Ibid.*, Vol. VI, No. 1. Philadelphia, 1914. 122 pages. \$2.00.